

**PART 56—NONDISCRIMINATION
ON THE BASIS OF HANDICAP IN
PROGRAMS AND ACTIVITIES AS-
SISTED OR CONDUCTED BY THE
DEPARTMENT OF DEFENSE**

Sec.

- 56.1 Purpose.
- 56.2 Applicability and scope.
- 56.3 Definitions.
- 56.4 Policy.
- 56.5 Responsibilities.
- 56.6 Information requirements.
- 56.7 Programs and activities subject to this part.
- 56.8 Guidelines for determining discriminatory practices.
- 56.9 Ensuring compliance with this part in Federal financial assistance programs and activities.
- 56.10 Ensuring compliance with this part in programs and activities conducted by the Department of Defense.

AUTHORITY: Pub. L. 93-112, sec. 504 29 U.S.C. 794, as amended by Pub. L. 95-602, 92 Stat. 2982; Pub. L. 93-112, sec. 7, 29 U.S.C. 706, as amended by Pub. L. 93-516, 88 Stat. 1619; Executive Order 12250; Executive Order 12291; Executive Order 12067.

SOURCE: 47 FR 15124, Apr. 8, 1982, unless otherwise noted.

§ 56.1 Purpose.

This part implements section 504 of Public Law 93-112, "Rehabilitation Act of 1973," September 26, 1973 (29 U.S.C. 794) (1976); section 111 of Pub. L. 93-516, "Rehabilitation Act Amendments of 1974," December 7, 1974 (29 U.S.C. 706, 780, 790) (1976); section 119 of Pub. L. 95-602, "Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978," November 6, 1978 (29 U.S.C. 794) (supp. III 1979); and Department of Justice Regulation, "Implementation of Executive Order 12250, Nondiscrimination on the Basis of Handicap in Federally Assisted Programs," August 11, 1981 (28 CFR part 41) to prohibit discrimination based on handicap in programs and activities receiving Federal financial assistance disbursed by the Department of Defense and in programs and activities conducted by the Department of Defense.

§ 56.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense, the Military

Departments, the Organization of the Joint Chiefs of Staff, the National Guard Bureau, and the Defense Agencies (hereafter referred to as "DoD Components") insofar as they:

(1) Extend Federal financial assistance to programs and activities that affect handicapped persons in the United States and that are covered by this part (see § 56.7(b)).

(2) Conduct programs and activities that affect handicapped persons in the United States and that are covered by this part (see § 56.7(c)).

(b) This part also applies to each recipient of Federal financial assistance disbursed by the Department of Defense and to each program and activity that receives or benefits from such assistance, insofar as such recipient, program, or activity affects a handicapped person in the United States.

§ 56.3 Definitions.

(a) *Facility.* All or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or any interest in such property.

(b) *Federal financial assistance.* Any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Federal Government provides or otherwise makes available assistance in the form of:

(1) Funds.

(2) Services performed by Federal personnel, including technical assistance, counseling, training, and provision of statistical or expert information.

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration.

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal government.

(c) *Handicapped person.* Any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. For

purposes of this Directive as it relates to employment programs of recipients, such term does not include any individual who is an alcoholic or drug abuser and whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question, or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or to the safety of others. As used in this paragraph:

(1) *Physical or mental impairment.* Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal and special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, and muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; drug abuse; and alcoholism.

(2) *Major life activities.* Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment.* Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment.* Has: (i) A physical or mental impairment that does not substantially limit major life activities but is treated by a recipient or DoD Component as constituting such a limitation;

(ii) A physical or a mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) None of the impairments defined above, but is treated by a recipient or DoD Component as having such an impairment.

(d) *Historic properties.* Those properties listed or eligible for listing in the National Register of Historic Places.

(e) *Include; such as.* Not all the possible items are covered, whether like or unlike the ones named.

(f) *Qualified handicapped person.* A handicapped person who:

(1) With respect to employment, can perform the essential functions of the job in question with reasonable accommodation.

(2) With respect to services, meets the essential eligibility requirements for receiving the services in question.

(g) *Recipient.* Any State or political subdivision or instrumentality thereof, any public or private agency, institution, organization, or other entity, or any person that receives Federal financial assistance directly or through another recipient, including any successor, assignee, or transferee of a recipient, but not the ultimate beneficiary of the assistance. The term includes persons and entities applying to be recipients.

(h) *Substantial impairment.* A significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

§ 56.4 Policy.

It is DoD policy that no qualified handicapped person shall be subjected to discrimination on the basis of handicap under any program or activity that receives or benefits from Federal financial assistance disbursed by a DoD Component or under any Federal program or activity that is conducted by a DoD Component. Guidelines for determining actions that discriminate against handicapped persons are prescribed in § 56.8.

§ 56.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L))*, or designee, shall monitor compliance with this part. In discharging this responsibility, the ASD(MRA&L), or designee, shall:

(1) Coordinate efforts of DoD Components to enforce this part.